IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9228 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAY PANCHMAHALS YUVAK PRAGATI MANDAL

Versus

DIST EDUCATION OFFICER

Appearance:

1. Special Civil Application No. 9228 of 1998

MR MUKESH R SHAH for Petitioner No. 1

RULE SERVED for Respondent No. 1-2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/02/2003

ORAL JUDGEMENT

The petitioner before this Court is an Educational Trust. Feeling aggrieved by the order of

deduction in grant, the petitioner has preferred the present petition.

It appears that the petitioner-Trust [hereinafter referred to as, "the Trust"] runs a Secondary School at village-Pichhoda, Taluka-Jhalod, District Panchmahals [hereinafter referred to as, "the School"]. In the year 1995, a No Objection Certificate was issued by the District Education Officer in favour of the Trust for appointment of a teacher in the subject of Hindi. Accordingly, the Trust gave an advertisement and invited applications for appointment of an Assistant Teacher in the subject of Hindi. The interviews were held on 3rd June, 1995. The due selection and appointment were also made.

However, one candidate - Shri Ramesh Kumar Jatwa complained to the District Education Officer that he did not receive the call-letter for the interview, instead was sent a blank sheet of paper. Pursuant to the said complaint, the District Education Officer, Panch Mahals initiated an inquiry. The Trust maintained that the call letters were issued to all the applicants, including the complainant-Ramesh Kumar Jatwa. Inspite of several opportunities given to the Trust, the Trust failed to produce office copy of the call-letter sent to the said candidate-Ramesh Kumar Jatwa. The District Education Officer, therefore, held that the Trust had failed to send call letters to all the candidates and particularly, the complainant-Ramesh Kumar Jatwa. The said Ramesh Kumar Jatwa was thus deprived of a fair opportunity to compete for the post of Assistant Teacher. The District Education Officer, therefore, under Order dated 20th August, 1996 ordered deduction in the maintenance grant of the School for the year 1995-96 to the extent of 25%. Feeling aggrieved, the Trust preferred appeal before the Commissioner of Higher Education. The said appeal was dismissed on 30th July, 1997. Feeling aggrieved, the petitioner has preferred the present petition.

It appears that pursuant to the advertisement given by the Trust, as many as 26 candidates had applied for appointment as Assistant Teacher. However, at the time of interview, only 5 of such applicants remained present for the interview. Pursuant to the said interview, a candidate was selected and appointed as Assistant Teacher. Pursuant to the above referred complaint lodged by one of the candidates, Ramesh Kumar Jatwa, the inquiry was initiated. The Trust answered the show cause notice and informed the District Education Officer that all the applicants were issued call letters.

However, inspite of several opportunities given to it, the Trust failed to produce copy of the call letter given to the complainant Ramesh Kumar Jatwa. Even before the Appellate Authority or even before this Court, the Trust has failed to produce copy of the call letter given to the complainant. In the circumstances, the finding recorded by both the authorities below that the complainant Ramesh Kumar Jatwa was deprived of a fair opportunity, does not warrant interference. In view of the negligence exhibited by the Trust, the deduction in the grant imposed by the Trust does not warrant interference.

In above view of the matter, the petition is dismissed. Rule is discharged.

[Ms. R.M Doshit, J.]

Prakash*